

SUPREME COURT OF ARIZONA

IN THE MATTER OF A MEMBER  
OF THE STATE BAR OF ARIZONA

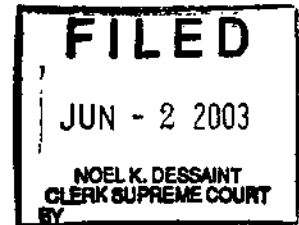
DAVID W. COUNCE,  
Bar No. 010822

RESPONDENT.

) Supreme Court  
) No. SB-03-0071-D  
)

) Disciplinary Commission  
) No. 01-2359  
)

) **JUDGMENT AND ORDER**  
)



This matter having come on for hearing before the Disciplinary Commission of the Supreme Court of Arizona, it having duly rendered its decision and no discretionary or *sua sponte* review occurring,

IT IS ORDERED, ADJUDGED AND DECREED that **DAVID W. COUNCE**, a member of the State Bar of Arizona, is hereby suspended from the practice of law for a period of six (6) months and one (1) day, effective thirty days from the date of this Judgment and Order, for conduct in violation of his duties and obligations as a lawyer.

IT IS FURTHER ORDERED that **DAVID W. COUNCE** shall be placed on probation for a period of two (2) years upon reinstatement under the following terms and conditions:

- 1) Respondent shall participate in the Law Office Management Assistance Program (LOMAP), including the use of a practice monitor, under terms and conditions recommended by the Law Office Management Assistance Program director or her designee. The terms and conditions shall be more specifically determined at the time of reinstatement.
- 2) In the event Respondent fails to comply with any of the foregoing terms, and information thereof is received by the State Bar, bar counsel shall file with the Hearing Officer a Notice of Non-Compliance. The Hearing Officer shall conduct a hearing at the earliest possible date, but in no event later than thirty (30) days following receipt of notice, to determine whether a condition of probation has been breached and, if so, to recommend an appropriate sanction.
- 3) If there is an allegation that Respondent failed to comply with any of the foregoing terms, the burden of proof shall be on the State Bar to prove non-compliance by a preponderance of the evidence.

IT IS FURTHER ORDERED that Respondent shall pay in full any and all claims paid by the Client Protection Fund, not to exceed the maximum permissible payment of \$100,000.00.

IT IS FURTHER ORDERED that Respondent shall comply with all the provisions of Rule 63, Rules of the Supreme Court of Arizona, including, but not limited to, Rule 63(a), which requires that Respondent notify all of his clients, within ten (10) days from the date hereof, of his inability to represent them and that he should promptly inform this Court of his compliance with this Order as provided in Rule 63(d).

DATED this 2nd day of June, 2003.

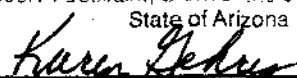
  
NOËL K. DESSAINT, Clerk

TO:

David W. Counce, Respondent (Certified Mail, Return Receipt)  
Shauna R. Miller, Bar Counsel, State Bar of Arizona  
Patricia E. Nolan, Hearing Officer 7Y  
Douglas M. Brooks, Clerk, Disciplinary Commission (Cert. Copy)  
Dee Steadman, Lawyer Regulation Records Manager, State Bar of Arizona (Cert. Copy)  
William Suter, Clerk, United States Supreme Court (Cert. Copy)  
Cathy Catterson, Clerk, United States Court of Appeals for the Ninth Circuit (Cert. Copy)  
Richard Weare, Clerk, United States District Court, District of Arizona (Cert. Copy)  
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/kdl

The foregoing instrument is a full, true and correct copy of the original on file in this office.

Attest:  
Noël K. Dessaint, Clerk of the Supreme Court  
State of Arizona  
By  Deputy